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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division Public Programs Branch

RESOLUTION T-16795 December 18, 2003

<u>RESOLUTION</u>

Resolution T-16795. Approval Of Recasted Fiscal Year (FY) 2003-04 And FY 2004-05 Budgets For Universal Lifeline Telephone Service Trust Administrative Committee Fund Budget, And A Revised Surcharge Rate Of 1.10% Effective January 1, 2004

In Compliance With Public Utilities Code Section 270(A)

Summary

This resolution adopts a recasted fiscal year (FY) 2003-04 budget of \$245.034 million and a FY 2004-05 budget of \$251.637 million for the Universal Lifeline Telephone Service (ULTS) Trust Administrative Committee Fund. Itemized costs of these budgets are attached as Appendix A. For the funding of these adopted budgets, a revised surcharge rate of 1.10% shall take effect on January 1, 2004. All certificated telecommunications carriers required to file tariffs with the Commission shall file advice letters by December 24, 2003 revising the current ULTS surcharge rate from 1.20% to 1.10% to take effect on January 1, 2004.

Background

1. ULTS Program

The ULTS program was established by the California Public Utilities Commission (CPUC or Commission) in 1984 pursuant to Public Utilities (PU) Code § 871 to provide discounted basic telephone services to qualifying low-income households. The ULTS discounted services are provided by exchange service providers, which, in turn, receive reimbursement from the ULTS program for their lost revenues and operating expenses associated with the provision of ULTS services. With the advent of local exchange competition, in November 1996, the Commission ceased reimbursing carriers for their ULTS related commercial and marketing expenses, and designated a new advisory board for recruiting a qualified advertising agency to develop print, billboard, and radio advertising for the ULTS program, as well as qualified nonprofit community-based organizations (CBOs) to engage in community outreach to

promote the ULTS program.¹ With this revision of the program, the ULTS has a dual purpose: 1) a discounted program for the purpose of achieving a 95% subscriber rate for all residential customer groups, and 2) a marketing program for the marketing and outreach of the ULTS program in a competitively neutral environment.

2. Program Funding

The ULTS program is funded through a surcharge billed and collected by all telecommunications carriers, which in turn remit the surcharge monies to the financial institution designated by the Commission. Historical ULTS surcharge rates since the inception of the program are available online at http://www.cpuc.ca.gov.

3. Program Administration

In D.87-10-088, the Commission established the ULTS-Trust Administrative Committee (ULTS-AC) to administer and manage financial aspects of the ULTS program. In D.97-12-105, the Commission established the ULTS-Marketing Board to develop and implement marketing programs in accordance with D. 96-10-066. Members of the ULTS-AC and the ULTS-MB were not compensated for serving on the committees. However, these committees had paid staffs conducting daily administrative and operational functions for the ULTS-AC and ULTS-MB.

PU Code § 270 et seq. were codified by the enactment of Senate Bill (SB) 669 requiring that:

- the State Treasury create a Universal Lifeline Telephone Trust Administrative Committee Fund (ULTSAC Fund),
- the Commission create a Universal Lifeline Telephone Trust Administrative Committee to advise the Commission regarding the development, implementation, and administration of the ULTS program.
- the Commission transfer all remaining ULTS funds and future surcharge revenues to the Controller for deposit in the ULTSAC Fund commencing October 1, 2001,
- the Commission may only expend funds of the ULTSAC Fund upon appropriation in the State's annual Budget Act.

During 2001, the Commission issued a series of decisions, and took actions to implement SB 669 including:

At page 231 of D.96-10-066.

- dismissing all paid staffs of ULTS-AC and ULTS-MB as of September 30, 2001;
- assuming all administrative responsibilities of the ULTS programs by Commission staff commencing October 1, 2001;
- transferring the remaining funds of the ULTS in excess of \$108 million to the State Treasury Office on October 1, 2001;
- adopting a FY 2001-02 revised budget on October 10, 2001 consistent with the appropriation in the FY 2001-02 Budget Act;
- merging the ULTS-AC and ULTS-MB into one board with the ULTS-AC as the surviving board;
- reconstituting the ULTS-AC; and
- charging of the ULTS-AC with the following responsibilities:
 - O Pursuant to Pub. Util. Code § 273(a), on or before June 1 of each year the ULTS-AC shall submit a proposed budget to the Commission's Telecommunications Division. The proposed budget shall include estimated program expenditures and the Committee's projected expenses for the fiscal year (July 1 to June 30) that will commence thirteen (13) months thereafter.
 - Pursuant to Pub. Util. Code § 273(b), on or before October 1 of each year the ULTS-AC shall submit a report to the Commission describing Committee activities during the prior fiscal year.
 - Pursuant to Pub. Util. Code § 277(a), the ULTS-AC shall advise the Commission regarding the development, implementation and administration of the ULTS program, within the context of the Committee's purpose.

4. Program Budget

On May 21, 2003, the ULTS-AC held a monthly meeting to discuss, among other issues, a proposed FY 2004-05 budget to be submitted to the Commission by June 1, 2003 in accordance with Paragraph 4.a.1 of the ULTS-AC Charter. Seven of the nine-member ULTS-AC were present at the meeting, and a quorum was declared.

At the onset of the meeting, the Commission's Acting Chief Counsel (Counsel), advised committee members that have financial interests in the program not to participate in the FY 2004-05 budget development due to a potential conflict of interest pursuant to Government Code § 1090. The Counsel indicated that while the Legal Division continues its research on

the conflict of interest issues in respect to the Fair Political Practices Act and Government Code § 1090, the Legal Division is taking a conservative approach and advising members with any financial interests in the program to recuse themselves from discussing and acting on the FY 2004-05 ULTS program budget.

Under the advice of the Commission's Acting Chief Counsel, 5 committee members recused themselves, and two, Richard Elbrecht of California Department of Consumer Affairs and Mike Gipson of County of LA Community Action Board, remained to discuss and develop the FY 2004-05 proposed budget. On June 2, 2003, Messrs. Elbrecht and Gipson submitted a letter to the Commission's Executive Director recommending a budget of \$251.963 million for the ULTS Trust Administrative Committee Fund for FY 2004-05.

Notice/Protests

Copies of the proposed FY 2004-05 budget submitted by 2 members of the ULTS-AC were mailed to the Commission and parties on the service list of R.98-09-005. This proposed budget was duly noticed on the Commission's Daily Calendar on June 3, 2002 stating that any comments and/or protests must be made in writing and received by the Commission within 20 days from the posting date. This 20-day protest period has lapsed and no protests and/or comments have been received.

Discussion

This resolution adopts a recasted fiscal year (FY) 2003-04 budget of \$245.034 million and a FY 2004-05 budget of \$251.637 million for the Universal Lifeline Telephone Service (ULTS) Trust Administrative Committee Fund. Itemized costs of these budgets are attached as Appendix A. For the funding of these adopted budgets, a revised surcharge rate of 1.10% shall take effect on January 1, 2004.

1. FY 2003-04 Recasted Budget

In April 2003, the Commission adopted Resolution T-16689 setting forth a budget of \$239.883 million for the ULTS Trust Administrative Committee Fund for FY 2003-04. Since then, the following events occurred:

- In August 2003, the State appropriated an additional \$6 million to the ULTS Trust Administrative Committee Fund allowing the ULTS to expend up to \$6 million for expenses incurred prior to FY 2003-04.
- In August 2003, the Commission submitted to the State Controller's Office the Certification of FY 2002-03 Year-End

Financial Reports for the ULTS Trust Administrative Committee Fund. This Certification included the encumbrance of the entire 3-year \$75,000 contract with Bank of America for the processing of surcharges remitted by telecommunications carriers. As a result of this encumbrance, there will not be any banking fee charged against FY 2003-04 and FY 2004-05 budgets.

 In November 2003, the State Controller's Office advised the Commission that \$839,000 will be charged against the ULTS Trust Administrative Committee Fund for its pro-rata assessment for support to other State control agencies.

As the result of the above changes, TD recommends that the FY 2003-04 budget be recasted to \$245.034 million. Itemized costs of this recasted budget are attached as Appendix A. TD's recommendation is reasonable, and is therefore adopted.

2. FY 2004-05 Budget

Article 5.4 of the ULTS-AC Charter requires committee decisions to be made by majority vote of those members present as long as a quorum is present at the time of the vote. The proposed budget submitted to the Commission on June 2, 2003 was developed and approved by 2 committee members without a majority vote of those members present at the meeting.

In this resolution, the Commission adopts the FY 2004-05 budget recommended by the Telecommunications Division (TD), as summarized and discussed below:

	FY 2004-05
	Adopted
	Budget
	(\$ in millions)
Carrier Payments	\$242.000
Marketing and Outreach Projects	\$5.758
Administrative Committee	\$0.021
Audits	\$2.100
Banking Fees	\$0.000
CPUC Administrative Costs	\$0.330
Interagency Costs	\$1.378
Other Operating and Maintenance Expenses	<u>\$0.050</u>
Total Program Expenses	<u>\$251.63737</u>

<u>Carrier Payments</u>: This expense category is based on projections submitted by telecommunications carriers and historical trends. The amount of \$242 million proposed by TD is reasonable, and therefore is adopted.

Marketing, Outreach, and other Projects: These projects include a marketing contract of \$5 million,² a marketing assessment contract of \$0.250 million; and a call center contract of \$0.508 million for a total of \$5.758 million. These projects and related costs proposed by TD are reasonable, therefore should be adopted.

Administrative Committee: On January 29, 2003, the Department of Finance (DOF) issued a budget letter requesting that all State advisory bodies to limit their meetings to one annually for FY 2003-04. Since meeting once annually would significantly impair the functions of the ULTS-AC, the Commission obtained exemption from the DOF to allow the ULTS-AC to meet six (6) times during FY 2003-04 for a total budgeted cost of \$21,000. As of this time, the Commission has not received any advice changing the State advisory bodies' meeting limit set forth in the DOF's January 29, 2003 letter. Therefore, TD's proposal of maintaining status quo and \$21,000 for administrative committee expense for FY 2004-05 is reasonable, and therefore should be adopted.

<u>Audits</u>: This cost category includes four different types of audits: 1) audits on the financial position of the ULTS Fund; 2) audits on the program in compliance with Commission decisions and PU Code § 270 et seq.; 3) audits on carriers for accuracy of reporting and remitting ULTS surcharge; and 4) audits on carriers for their accuracy of program reimbursement requests. The integrity of the ULTS program is contingent on whether the Fund is financially sound; the program is in compliance with Commission orders and legislative mandates; carriers are assessing, reporting and remitting the appropriate ULTS surcharges; and carriers are receiving the applicable reimbursements for the provision of the ULTS services. For these reasons, the total audit cost of \$2.1 million proposed by TD is reasonable, and therefore should be adopted.

<u>CPUC Administrative Costs</u>: These are the personnel costs to be recovered by the CPUC for administering the ULTS program. For this cost category, TD proposes \$330,000, the same amount approved by the Commission for FY 2003-04 in Resolution T-16689. TD's proposal is reasonable, and therefore should be adopted.

<u>Interagency Costs</u>: On November 7, 2003, the State Controller's Office advised the Commission that for the ULTS Trust Administrative Committee Fund, a pro-rata assessment of \$1,378,000 for support to other State control agencies will be included in the Governor's FY 2004-05 Budget. TD's proposal of \$1,378,000 is consistent with State Controller's Office advice, and therefore should be adopted.

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Decision 97-12-105 (p.233) requires that the ULTS marketing and outreach efforts cannot exceed the average of the annual ULTS expenses reimbursed to all carriers for the previous three years that carriers provided for ULTS marketing services. Pursuant to this directive, Resolution T-16176 established an annual budget of \$5 million for ULTS marketing and outreach efforts.

Other Operating and Maintenance Expenses: For this cost category, TD proposes \$50,000, the same amount approved by the Commission for FY 2003-04 in Resolution T-16689. TD's proposal is reasonable, and therefore should be adopted.

3. Program Funding

For the funding of the recasted FY 2003-04 and FY 2004-05 budgets, this Resolution adopts a revised surcharge rate of 1.10% effective January 1, 2004. Factors used to develop this revised surcharge rate include, but are not limited to, the following:

<u>Telecommunications Billings Subject to Surcharge</u>: Based on the surcharge remittances for FY 2002-03, TD slightly revised the total forecasted telecommunications billing subject to surcharge for FY 2003-04 from \$19,845.588 million adopted by the Commission in Resolution T-16689 in April 2003 to \$20,045.096 million. TD also forecasted the telecommunications billings subject to surcharge for FY 2004-05 to be \$20,947.125 million. These forecasts were developed by applying the personal income percentage changes for California projected by UCLA Anderson in September 2003 for 2003, 2004 and 2005 on the FY 2002-03 telecommunications billing reported by telecommunications carriers.

<u>Rate Development:</u> In Resolution T-16689 adopted by the Commission in April 2003, the surcharge rate of 1.20% for the funding of the FY 2003-04 budget was developed based on a projected beginning fund balance carried over from FY 2002-03 to be less than \$60 million. In August 2003, the Commission submitted the Certification of FY 2002-03 Year-End Financial Reports to the Controller's Office reporting the ULTS Trust Administrative Committee Fund's fund balance as of the end of FY 2002-03 in excess of \$98 million, i.e. \$38 million more than the amount projected in Resolution T-16689.

Due to the combination of a higher fund balance carried over from FY 2002-03, a higher forecasted telecommunications billing base subject to surcharge for FY 2003-04, and the current surcharge rate of 1.20%, the resulting funds exceed needed FY 2003-04 and FY 2004-05 expenditures. Instead of developing a surcharge rate to take effect on July 1, 2004, TD proposes a lower surcharge rate to take effect immediately, i.e. on January 1, 2004. TD's proposal reflects the Commission's sensitivity to levying any unnecessary financial burden on ratepayers. Thus, TD's proposal is reasonable, and therefore should be adopted.

Advice Letter Filings And Notice To Other Carriers

All certificated telecommunications carriers required to file tariffs with the Commission shall file advice letters by December 24, 2003 revising the current ULTS surcharge rate of 1.20% to 1.10% effective January 1, 2004.

The Commission oversees several public programs. The surcharge rates of one or more of these programs will be revised on January 1, 2004 and will remain effective until revised again by another Commission order. For administrative efficiency, we will allow all telecommunications utilities that are subject to the surcharges for these various programs to file concurrently revised tariff schedules in compliance with resolutions and decisions revising these surcharges in accordance with the provisions of G.O. 96-A on or before December 24, 2003. These advice letters shall become effective January 1, 2004 and will remain effective until revised again by another Commission order.

Furthermore, in Resolution T-15558 (dated June 8, 1994), we waived the notice requirements of General Order (G.O.) 96-A, Section III.G.1 to furnish competing utilities either public or private with copies of related tariff sheets. We did so because it did not appear to be in the public's interest for each utility to send and receive over two hundred notices advising them of regulatory changes about which they already know. Since that time nothing has happened to change our opinion, so we will waive this notice requirement for tariff changes which comply with this resolution.

Notice Of Availability And Comments

To be consistent with the Commission's commitment to utilize the Internet for distributing Commission orders and information, a letter was mailed on November 18, 2003 to all telecommunications carriers, parties of record in R.98-09-005, and ULTS-AC committee members notifying these parties that the draft resolution as well as the conformed resolution, when adopted by the Commission, are available online at www.cpuc.ca.gov/static/industry/telco/resolutions/index.htm. Also, in this letter, parties were informed that the draft of this resolution is available for public comments in accordance with PU Code § 311(g).

Comments filed on a timely basis will be addressed by the Telecommunications Division in this resolution.

Findings

- 1) The California Public Utilities Commission (CPUC or Commission) established the Universal Lifeline Telephone Service (ULTS) program in 1984 pursuant to Public Utilities (PU) Code § 871 to provide discounted basic telephone services to qualifying low-income households.
- 2) In D.87-10-088, the Commission established the ULTS-Trust Administrative Committee (ULTS-AC) to administer and manage financial aspects of the ULTS program

- 3) With the advent of local exchange competition, in Decision (D.)96-10-066, the Commission designated a new advisory board for recruiting a qualified advertising agency to develop print, billboard, and radio advertising for the ULTS program, as well as qualified nonprofit community-based organizations to engage in community outreach to promote the ULTS program.
- 4) In D.97-12-105, the Commission established the ULTS-Marketing Board to develop and implement marketing programs in accordance with D. 96-10-066.
- 5) PU Code § 270 et seq. were codified by the enactment of Senate Bill (SB) 669 requiring that the Commission create a Universal Lifeline Telephone Trust Administrative Committee to advise the Commission regarding the development, implementation, and administration of the ULTS program, transfer all remaining ULTS funds and future surcharge revenues to the Controller for deposit in the ULTSAC Fund commencing October 1, 2001, and may only expend funds of the ULTSAC Fund upon appropriation in the annual Budget Act.
- 6) In 2001, the Commission issued a series of decisions and took actions to implement SB 669 (1999) including but are not limiting to merging the ULTS-AC and the ULTS-MB, and revising the Charter of ULTS-AC, the surviving committee, from administrative and advisory functions to advisory only.
- 7) In compliance with the chartered responsibility, on May 22, 2003, the ULTS-AC held a monthly meeting to discuss the fiscal year (FY) 2004-05 proposed budget to be submitted to the Commission by June 1, 2003.
- 8) At the onset of the May 2003 meeting, the Commission's Acting Chief Counsel advised committee members with financial interests not to participate in the discussion and development of the FY 2004-05 budget due to a potential conflict of interest pursuant to Government Code § 1090. Under this advice, 5 of the committee members in attendance recused themselves and 2 remained to discuss and develop the FY 2004-05 budget for the ULTS Trust Administrative Committee Fund.
- 9) On June 2, 2003, ULTS-AC committee members Richard Elbrecht of California Department of Consumer Affairs and Mike Gipson of County of LA Community Action Board, submitted a letter to the Commission's Executive Director recommending a \$251.963 million budget for the ULTS Trust Administrative Committee Fund for FY 2004-05. This proposed budget was not approved a majority vote of members present at the May 2003 meeting.
- 10) The Commission's Telecommunications Division (TD) recommends a recasted FY 2003-04 budget of \$245.034 million and a FY 2004-05 budget of \$251.637 million for the

- ULTS Trust Administrative Committee Fund. Itemized costs of these budgets are attached as Appendix A. TD's proposed budgets are reasonable and should be adopted.
- 11) For the funding of the recasted FY 2003-04 and FY 2004-05 budgets, TD proposed a revised surcharge rate of 1.10% to take effect on January 1, 2004. TD's proposal is reasonable, and should be adopted.
- 12) All certificated telecommunications carriers required to file tariffs with the Commission should file advice letters by December 24, 2003 revising the current ULTS surcharge rate of 1.20% to 1.10% effective on January 1, 2004. All certificated telecommunications carriers in California should apply this surcharge rate on their end-users' bills rendered on or after January 1, 2004.
- 13) For administrative efficiency, it is reasonable to allow all telecommunications utilities that are subject to the various public program surcharges to file concurrently revised tariff schedules in compliance with the resolutions and decisions revising these surcharges in accordance with the provisions of G.O. 96-A on or before December 24, 2003. Such filings will become effective January 1, 2004 and remain in effect unless revised by another Commission order.
- 14) Since nothing has happened since the time the Commission waived the notice requirements of General Order 96-A, Section III, G.1(Resolution T-15558 dated June 8, 1994), the notice requirement for tariff changes complying with this resolution will continue to be waived.
- 15) Copies of the Notice of Availability of the draft of this Resolution were mailed on November 18, 2003 to all telecommunications carriers, parties of record in R.98-09-005, and the committee members of the ULTS-AC advising them that this document is available online at www.cpuc.ca.gov/static/industry/telco/resolutions/index.htm, and is available for comments in accordance with PU Code Section 311(g).

THEREFORE, IT IS ORDERED that:

- 1) The recasted fiscal year (FY) 2003-04 budget of \$245.034 million and a FY 2004-05 budget of \$251.637 million for the Universal Lifeline Telephone Service (ULTS) program, as set forth in Appendix A of this resolution, are adopted.
- 2) A revised surcharge rate of 1.10% to take effect on January 1, 2004, until further revised by the Commission, is adopted.

- 3) All certificated telecommunications carriers required to file tariffs with the Commission shall file advice letters by December 24, 2003 revising the ULTS surcharge rate to 1.10% to take effect on January 1, 2004.
- 4) All telecommunications carriers who are required to collect the surcharges for the various public programs may concurrently file revised tariff schedules in compliance with the resolutions or decisions revising these surcharges by advice letters in accordance with the provisions of General Order 96- A, Section III, G.1 (Resolution T-15558 dated June 8, 1994) on or before December 24, 2003. The advice letter shall become effective January 1, 2004 and remain in effect until further revised by the Commission.
- 5) All Local Exchange Companies and Interexchange Companies are granted an exemption from the noticing requirement of General Order 96- A, Section III, G.1 (Resolution T-15558 dated June 8, 1994), for surcharge changes resulting from this resolution only.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on December 18, 2003. The following Commissioners approved it:

WILLIAM AHERN Executive Director

APPENDIX A

ULTS TRUST ADMINISTRATIVE COMMITTEE FUND FY 2004-05 PROGRAM BUDGET

A TELECOMMUNICATIONS BILLING SUBJECT TO SURCHARGE		\$20,045,096,000	\$20,947,125,000	\$20,947,125,000	
B S	SURCHARGE RATES		1.20% (9/1/03)	1.10% (7/1/04)	1.10% (7/1/04)
	Jan 1, 2004		1.10% (1/1/04)		
		<u>Actual</u>	<u>Recast</u>	Proposed	<u>Adopte</u> d
		FY 2002-03	FY 2003-04	FY 2004-05	FY 2004-05
1 B	EGINNING FUND BALANCE	\$160,656,273	\$98,669,219	\$45,482,617	\$45,482,617
2 P	RIOR PERIOD ADJUSTMENTS				
а	Revenue	\$9,222,564			
b	Expenses	(\$43,599,977)			
3 R	EVENUES				
а	Surcharges (Ln A * Ln B)	\$189,044,646	\$190,428,412	\$230,418,375	\$230,418,375
L	Investment Income				
b	(2% of the Avg of Beginning/Ending Fund balance)	\$4,599,994	<u>\$1,418,986</u>	<u>\$680,531</u>	<u>\$680,531</u>
	,				
	UNDS AVAILABLE FOR PROGRAM PURPOSES	\$319,923,500	\$290,516,617	\$276,581,523	\$276,581,523
(sum of Ln 1 through Ln 3)				
5 P	ROGRAM EXPENSES				
а	Carrier Claims	\$215,045,374	\$230,000,000	\$242,000,000	\$242,000,000
С	Other Program Services-Marketing/Call Center	\$5,449,141	\$5,694,000	\$5,758,000	\$5,758,000
е	Other Program Payments		\$6,000,000		
h	Administrative Committee Expenses	\$11,524	\$21,000	\$21,000	\$21,000
i	Financial Audit		\$100,000	\$100,000	\$100,000
j	Compliance Audit		\$500,000	\$500,000	\$500,000
k	Surcharge Remittance Audit	\$100,000	\$600,000	\$600,000	\$600,000
1	Claim Audit	\$100,000	\$900,000	\$900,000	\$900,000
m	Banking Fee	\$100,000	\$0	\$0	\$0
n	Interagency Cost		\$839,000	\$1,378,000	\$1,378,000
0	CPUC Staff Costs	\$366,383	\$330,000	\$330,000	\$330,000
р	Other Operating Expenses	<u>\$81,859</u>	<u>\$50,000</u>	<u>\$50,000</u>	<u>\$50,000</u>
q	Total Program Expenses (sum of a thru o)	\$221,254,281	\$245,034,000	\$251,637,000	\$251,637,000
	ENDING FUND BALANCE AS OF JUNE 30 (Ln 4 – Ln 5q)	\$98,669,219	\$45,482,617	\$24,944,523	\$24,944,523